



The New College Athletics Media Packages and the Effect on Title IX

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November 2014

This project was submitted in partial fulfillment of the requirements for the degree of Master of Arts in the Graduate Liberal Studies Program in the Graduate School of Duke University.

Abstract:

In this paper I examine gender equity in collegiate athletics and specifically the impact of the recent explosion in the amount of money flowing to colleges and universities from new media contracts and the effect that money will have on women's sports. I discuss Title IX's history, implementation, critiques and clarifications as it applies to college athletics. I also discuss the statistics that will help understand where women currently stand within the culture of athletics. Bridging the two topics of gender equity and money in sports, I will also discuss briefly the evolution of college athletics and its relationship with television and how television has helped create the emphasis on men's sports. Lastly, I will discuss court decisions that have helped women pursue equity in college athletics. Because of the changing landscape within college athletics at the present moment, the conclusions drawn in this paper are, to a degree, uncertain and speculative. More definitive answers regarding many of the topics this paper discusses will be determined in the coming years, but based on history, Title IX will remain a forceful and needed asset for women as they continue to strive to close the gap in college athletics.

Table of Contents:

1. Introduction
2. A brief history of Title IX
3. What the numbers say
4. The emergence and expansion of television contracts
5. The reporting system and court cases that have helped shape equality in college athletics
6. Conclusion
7. Works cited

I. Introduction

The purpose of this paper is to examine the future of college athletics, specifically women's athletics, as related to the new television contracts within the National Collegiate Athletic Association (NCAA) member conferences. Over the last eight years, college athletics has taken a significant turn toward commercialization. Media networks have substantially increased their investment in college football and men's basketball that has further expanded commercialization of college athletics. The ripple effect of the latest media investments has created uncertainty as to how the money will impact governance within college athletics. The current collegiate athletics system has its flaws but it also has worked well for women as suggested by the increase in opportunities and funding.

However, now that system is undergoing massive changes due to a number of factors, but primarily due to new, extraordinarily lucrative media contracts, the future of women's athletics might be in question. Will the gap that is still present between men and women get larger as decisions are made that seem to benefit football and men's basketball? Women have benefited from having the aid of Title IX to help bring equity in college athletics. How can Title IX be applied in the present circumstances to maintain an equitable balance in college athletics?

Title IX of the Education Amendments was signed into law by President Richard Nixon in 1972 and mandates that “no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving Federal financial assistance” (Title IX Legal Manual, 3). The passage of Title IX was monumental because it opened doors for women to higher education and activities that had once been closed. Athletics is one of the activities of higher education protected under Title IX. Because of this law, universities and colleges must provide women the opportunity to participate in sport and are expected to provide a comparable athletic experience for women to that of their male counterparts. The remainder of this paper will illustrate that there is a significant gap between men’s and women’s college athletics programs in terms of fair practices and recent media contracts. This gap could potentially increase. However, because of Title IX and its litigation power, women’s athletics will most likely continue to advance.

The college athletics system is at a crossroads. The information and entertainment media have a long-standing relationship with college athletics, specifically football and men’s basketball. This relationship is a major catalyst for the recent changes in athletics. The relationship is mutually beneficial: the schools receiving coverage are provided national exposure and a great deal of money, while the networks make money from advertisers and viewers. The greatest beneficiaries of the media deals are the larger schools with high profile football and men’s basketball programs affectionately known as the “power five conferences.” These conferences include the

Big Ten, South Eastern Conference (SEC), Big 12, Atlantic Coast Conference (ACC), and the Pac 12. The money generated from the media contracts can enhance the student athlete experience for athletes who compete in football or men's basketball. Female athletes, for the most part, have been left out of the conversation, leaving to question whether female athletes will receive any benefits under the new college system that is starting to take shape. Will the new media contracts only further exacerbate the gap? Professional skateboarder Jen O'Brien said "The more coverage you get, the more you are worth" (Higgins). Although she was referring to the professional level, her remarks are relevant to college athletics because the concept of student athlete "worth" has started to be defined predominantly because of the money available to schools from their media contracts. By virtue of these media contracts, football and men's basketball will receive the majority of the benefits. But, media contracts alone will not widen the gap between men and women's athletics. While the recently negotiated media contracts give the five "power" conferences and schools within those conferences significant leverage within the current collegiate athletics system, those conferences and their constituent universities as well as the NCAA are not above or exempt from following the laws of the United States.

College athletics has veered in the direction of commercial entertainment for years, and now more than ever in order to maximize revenue. Conferences and schools are making decisions primarily based on which media deal will be most lucrative. An example of this type of decision-making is illustrated in the form of conference realignment. Schools are changing conference alliances based on media contracts. For

example, Nebraska, West Virginia, Maryland and a few others all left one conference for another with the expectation of a bigger market and bigger payout. The new media contracts have given the “power” conferences the ability to push the NCAA to deregulate many of the rules that are intended to provide a level playing field across the membership. Going a step further, the “power” conferences have also pushed for greater autonomy from the rest of the membership in order to make rules that are specific to their unique needs as it related to their athletes. Also, two recent court decisions regarding player image marketability, allowing football and men’s basketball players to be paid for the use of their image is going to test the meaning of equality that Title IX seeks to protect. The path of college athletics is changing and the end direction is not yet clear.

Through the next four chapters I will illustrate the evolution of college athletics in terms of Title IX. Chapter 2 will discuss the history of Title IX and how it is applied within college athletics. Chapter 3 will introduce statistical information comparing men’s and women’s college athletics that will illustrate the gap between the two genders but it will also illustrate just how far support for women’s athletics has come since the passage of Title IX. Chapter 4 will speak to the media’s impact on college athletics. Finally, in chapter 5 I will discuss the legal cases that have given Title IX a foundation to which to hold institutions accountable for gender inequity. I will also discuss recent court cases surrounding the commercialization of college athletics and athletes specially where possible decisions regarding gender may come into play.

Chapter 2: A Brief History of Title IX

In 1972, Congress passed the Higher Education Acts. A small section of the Higher Education Acts identified gender within its context. This small portion of the Higher Education Acts became known as Title IX. It was fashioned after Title VI of the Civil Rights Acts of 1964, a law that prohibited discrimination based on race, color or national origin within programs that received federal money (www.justice.gov). Title IX went a step further to directly combat gender inequities in education. It reads, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance” (www.justice.gov).

Democratic legislators, Senator Birch Bayh of Indiana and Congresswoman Edith Green of Oregon sponsored Title IX within their respected houses of the legislature. Senator Bayh was the primary author and sponsor of Title IX. To gather additional support in the House of Representatives, Congresswoman Green was the leader of this legislation in the House of Representatives.

Senator Bayh pushed for this legislation in Congress because of the large wage gap between men and women in the workforce. With the passage of the Civil Rights Act, women flooded the workforce. Yet the jobs women were qualified for were low paying positions. Senator Bayh saw a direct link between education and wage. Because women had little access to higher education, they were at a disadvantage when it came

to competitive higher wages. Senator Bayh wanted to “combat the continuation of corrosive and unjustified discrimination against women in the American education system” (Galles and Samuels).

Title IX was one of the most contested pieces of legislation to pass the Congress as evidenced by the numerous attempts to repeal or reform the law (Title IX legislative chronology). The process of applying Title IX to university systems was lengthy and required years before schools attained compliance. Today, Title IX is a mainstay in the educational system and has provided many people with opportunities they might not otherwise have received. However, the equality that Title IX sought, especially when applied to collegiate athletics, was and still is incredibly difficult to attain.

Prior to Title IX, opportunities for women to attend college were very limited. Women had difficulty breaking into male-dominated fields such as law and medicine. Prior to Title IX, just 7% of applicants to law schools and 9% of medical school applicants were women (Bayh 1). Women faced the same challenges when it came to athletic opportunities. The assumption was that women were not as interested in sport because they were more concerned with marriage and child rearing than higher education and athletics (“Access to Higher Education”). College athletics scholarships for women were few and far between and women’s sports only earned two percent of overall athletics budgets before Title IX (“Athletics Under Title IX”). Roughly, 16,000 women participated in intercollegiate sports in 1970 (Acosta and Carpenter 1). After Title IX was enacted, numbers skyrocketed, reaching close to 105,000 by 1995 (Worsnop 340). Still climbing, in 2008-09 that number increased to 182,530 female college participants (NCAA GER

2004-10 65). That is roughly a five hundred percent increase from 1971. But through the years, many groups resisted Title IX and how it was applied within college athletics.

During the decade of the 1970s, there were twenty-five attempts to amend or eliminate Title IX altogether. The first attempt to limit Title IX came just two years after its introduction. In 1974, Republican Senator John Tower of Texas introduced an amendment that would exclude “any sport that produced a gross revenue or donations for a school” (Galles and Samuels 19). The argument behind Senator Tower’s amendment was that the two major revenue producing sports, football and men’s basketball, should not be counted because the rules would be detrimental to the progress of the sports.

Additionally, football and men’s basketball produce the resources that allow the other sports to operate; therefore, they should not have any restrictions placed on them. Although Senator Tower’s amendment did not have much support, Congress did its due diligence, conducted numerous hearings, listened to opposing arguments, and in the end, decided that all sports, revenue producing or not, were to be included in the application of this law. The decision to include all sports within the law was important because it set the tone for how other attempts to change the law would be handled and re-emphasized the importance of equal rights for all United States citizens.

Senator Tower was not the only one who opposed Title IX in its original form. Because the law was not specific in terms of how equality would be implemented, Congress decided that the Department of Health, Education and Welfare (HEW) would develop criteria pertaining to the application of Title IX. In other words, HEW had to

decide precisely how this new policy would be interpreted. HEW determined that with regard to athletics, Title IX meant that institutions were to (1) offer male and female students equal opportunities to participate in sports; (2) allocate athletics scholarship dollars equitably; and (3) treat male and female students equitably in all aspects of athletics, including with regard to equipment and supplies; locker rooms, facilities, and practice areas; scheduling of games and practices; medical and training services; publicity and assignment and compensation of coaches (Galles and Samuels 13). HEW's regulations were met with strong backlash from disapproving congressional representatives but the majority agreed with the regulations that in turn finally gave Title IX a framework for its application in the educational system.

A year later, Title IX was challenged again, this time from the NCAA. In 1976 the NCAA challenged the legality of Title IX, claiming that none of its athletic programs received federal funds. The NCAA argued that because athletic programs did not directly receive funds from the federal government, then Title IX was not applicable. The NCAA also maintained that the HEW regulations were far too arbitrary in nature and would possibly prohibit the strides the NCAA had made toward gender equity in intercollegiate athletics (NCAA news). The case was never heard in court and would not affect the status of implementation of Title IX. However, in 1978 Grove City College filed a lawsuit against Title IX where it argued that the college did not need to adhere to Title IX because the school's programs did not directly receive any federal assistance (Dodd and Swayne 1573). A little after this lawsuit and in order to address confusion surrounding definitions of equality, HEW issued a final interpretation in regard to Title IX

and athletics in 1979 when it unveiled the “three-prong test” for determining institutional compliance with Title IX (“Title IX Legislative Chronology”). The Office of Civil Rights in the Department of Education carried out oversight and enforcement responsibilities of the three-part test for determining whether male and female students at both the high school and collegiate levels are provided with equal opportunities to play sports:

1. Whether intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments; or
2. Where the members of one sex have been and are underrepresented among intercollegiate athletes, whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of the members of that sex; or
3. Where the members of one sex are underrepresented among intercollegiate athletes, and the institution cannot show a continuing practice of program expansion such as that cited above, whether it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program (“Title IX still applies”)

A school is considered Title IX compliant if it meets one portion of the three-prong test. The interpretation by HEW provided a substantial leniency for universities in how they comply with Title IX. But even with room for creative interpretation of the

law, many schools chose to cut sports, predominantly male sports, in what they said was an effort to comply with Title IX.

In 1984, the Supreme Court heard the *Grove City College vs. Bell* case and agreed with Grove City College that Title IX was not applicable in this case. This ruling was a major blow to gender equity in athletics because enforcement of Title IX in athletics departments ceased. As a result, however, the ruling forced Congress to clarify its intent regarding Title IX. And in 1987 Congress passed the Civil Rights Restoration Act that “clarified that Congress intended Title IX to apply to the entire school when any of its programs or activities received federal funds” (Dodds and Swayne 1573). Title IX was once again applicable to college athletics.

As a result of the HEW regulations and Congress’s 1987 clarification letter, student athletes issued dozens of discrimination complaints against university athletics departments on the basis of violating Title IX equality provisions. One of the most important complaints was *Cohen vs. Brown* that will be discussed in more detail in Chapter 5. But the basic theme of the numerous complaints was lack of funding and treatment of women’s sports. In some cases women’s sports were dropped in status or eliminated. Nonrevenue men’s sports sometimes saw the same treatment as women’s sports. Many administrators used Title IX as an excuse to eliminate athletic programs. However, nowhere does Title IX suggest cutting a sport or opportunities from one gender to make room for another. In fact, in a 1996 Clarification Letter, the Department of Education reaffirmed that, “nothing in Title IX requires the cutting or reduction of

teams in order to demonstrate compliance with Title IX, and ... the elimination of teams is a disfavored practice” (Galles and Samuels 17).

Still, Title IX was challenged through the 1980s and into the 1990s by means of court decisions that favored the legislature’s intent to demand that activities within higher education be equitable. One case in particular in 1992 was a landmark case for those who advocated for equity in college athletics. *Franklin versus Gwinnett County Public School* rendered a decision that required reparations to be paid for not complying with the law.

This case marked the first time any court had ruled that monetary damages are available under Title IX for non- compliance (“Title IX Legislative Chronology”). This decision proved significant and was applied to future cases. With so much litigation involving Title IX in the courts, one might reason that the gap between male and female sports had closed. But no such data was available at that time to analyze the impact of Title IX.

In order to determine Title IX’s effectiveness, statistical information was necessary. In 1993, the NCAA published the first set of data. “The Gender Equity Study,” examined NCAA member institutions in such areas as coaches, equipment, athlete make up, and salaries. However, it is important to note that the study was not used to determine Title IX compliance. This report was strictly to gather information from member institutions to provide feedback on the progress of Title IX. The second report, covering the years 2004-2010, was not published until 2012. Again, the second

study did not report compliance but rather provided statistical information to examine Title IX's impact on athletics. These data will be discussed in Chapter 3.

Congress passed the Equity in Athletics Disclosure Act (EADA) in 1994 in an effort to inform prospective student-athletes about a school's commitment to providing an equitable environment (Keen 220). Jointly sponsored by Democratic Senator Carol Moseley-Braun from Illinois and Republican Representative Chris Collins from New York, the EADA at face value is a great piece of legislation because it attempts to compile useful data on gender equity and inform potential students of a school's commitment to gender equity. With oversight by the Department of Education, schools are asked to report data regarding revenues and expenditures for football, men's and women's basketball, as well as all other men's and women's sports, and data regarding participation and coaching (Keen 229). The data is used to illustrate and compare a university's commitment to equality. Annual reports are mandated under this Act.

However, the reports have been inaccurate because institutions use different methods to not only compile but also to discern information. For example, one school may include facility costs into a budget for men's basketball but another school may report those costs in the entire department facility line item. This type of discrepancy would give an inaccurate number as to what is actually spent on a men's basketball program. Kathryn Keen in writing about EADA notes that "there is a disconnect between their intent and their use. Varying accounting methods preclude many apples-to-apples comparisons between schools" (Keen 232). Even the Department of Education "does not use the reports and cannot verify the data that colleges and universities

publish under them” (Keen 230). Additionally, Keen suggests that despite the effort to provide information to prospective student athletes, “prospective student athletes never see, much less use, the reports produced through the EADA data collection” (245). In the late 1990s, EADA underwent a review to render it more accurate. The working groups also tried to see where EADA could work better with the NCAA to obtain information that is vital to determining Title IX’s impact on college athletics.

Even after data was provided to illustrate Title IX’s effectiveness, at least from a numbers standpoint, some groups still tried to overturn the law. In 2002, twenty-nine years after passage of Title IX the National Wrestling Coaches Association, College Gymnastics Association, and the US Track Coaches Association, all representing male athletes, filed suit against the Department of Education claiming that Title IX regulations and policies were unconstitutional. These groups argued that Title IX adversely affected their sports. Wrestling and men’s gymnastics teams were some of the first men’s sports to receive less funding or scholarship opportunities from their institutions. Men’s gymnastics teams at Michigan State, UCLA, and Brigham Young were dropped.

Similar to previous attempts to stifle Title IX, this attempt also failed to convince the courts and the public that Title IX was responsible for the cancellation of certain men’s sport and, second, unnecessary to level the playing field between men and women. In actuality, during 1984-87, when Title IX was not applicable to college athletics due to the *Grove City vs. Bell* decision, wrestling and men’s gymnastics saw the largest decrease in sport participation. These statistical data suggests that, in fact, Title

IX had little to do with the institutions' decisions to drop men's sports and perhaps more to do with budget allocation.

Even today, forty-two years later, Title IX is an important and controversial topic. To date, the Federal government has maintained that it is a necessary law to protect the rights of a certain group of citizens. In 2010, the Obama administration declared a more aggressive response to institutions that violate Title IX. The Obama administration reversed a Bush administration policy that allowed schools to use an email survey to determine athletic interest of its female students. The Obama administration went back to the old system where a school had to show compliance with Title IX through a few different methods (James). However, as of yet, there has been no punitive action to accompany the pledge.

Chapter 3: What the Numbers Say

When looking at the numbers from studies and surveys to discern the effectiveness Title IX or to determine how and why schools are not meeting federal law, it is important to understand where women's athletics started. But it is more important to realize that women still lag behind men when it comes to overall equity in athletics. The NCAA did not start recording data until the late 1980s and they really did not start looking at gender differences until 1994 when the NCAA gender equity task force was formed.

There are two reasons it took ten years from the passage of Title IX for the NCAA to accept women's athletics into its membership. First, the NCAA did not initially show favor toward Title IX. In fact, as previously stated, they publicly opposed the new law by challenging Title IX's legality. The NCAA's lack of support either suggests a lack of respect for women's athletics and/or a lack of willingness to spend the money to support women's teams. But when it became clear that Title IX was going to take effect, the NCAA decided to take women's athletics under its umbrella.

The second reason it took so long for the NCAA to sponsor women's teams was women were participating in the limited options available for them by attending colleges that competed within the Association of Intercollegiate Athletics for Women (AIAW). The AIAW encouraged a less competitive and more educational model for sport

participation among women (Hogshead-Maker and Zimbalist 25-26). Thus, the AIAW did not allow athletics scholarships for its female participants while the NCAA fully supported the appropriation of athletics scholarships among its member institutions.

The fact that the NCAA offered scholarships was problematic for the AIAW. The first conflict with this practice by the AIAW came in 1973, when female tennis players from Marymount College and Broward Community College sued the AIAW over the scholarship ban (Hogshead-Marker and Zimbalist 25). The Court ruled that, under Title IX, if men were given the opportunity to earn an athletic scholarship, women should as well. This was the beginning of the end of the AIAW. Although the lawsuit was settled and the association began to allow scholarships, the AIAW continued to push an educational philosophy approach that eventually did not meet its membership institutions' needs. The AIAW's membership wanted a more competitive athletic environment similar to what the NCAA was promising.

The NCAA decided to take advantage of the controversy within the AIAW. In 1980, the NCAA offered competing championships from that of the AIAW. The NCAA sponsored championships promised a more competitive platform. Other incentives for women's teams to join the NCAA were offered. The most significant was when the NCAA offered a women's basketball championship TV package (Zimbalist 60). The AIAW could no longer compete with the NCAA and dissolved in 1982. As a result, the NCAA gained a monopoly on college athletics. With institutions belonging to the NCAA for both men's and women's teams, equity became an NCAA responsibility. Women's participation numbers were on the rise.

From the onset of Title IX through 1977, women's participation in college athletics doubled from 31,852 to 64,375 (Zimbalist 59). However, from 1977 to 1995, during the early years that women's athletics were under the NCAA, participation only grew on a yearly average of 3%, while men's athletics participation numbers grew 1.8% annually (Zimbalist 59). Participation numbers remained stagnant until 2012 when the NCAA reported the highest numbers of participation among Division 1 schools with an average of 9.44 women's varsity teams per school (Acosta and Carpenter 4). While women's opportunities were slowly increasing, so were opportunities for men. And because women were so far behind men in terms of participation opportunities, at the rates these numbers were increasing, it would take years for some sense of equity.

While numbers for participation were slowly increasing, the need for scholarship dollars was at a premium. In 1995-96, while females made up 50% of the student body, they only received 38% of total scholarship dollars and represented only 37.6% of college athletes (Zimbalist 59). A year later, women represented 39% of all total college athletes (Zimbalist 59). Two years later, according to the 1997-98 NCAA Gender Equity study, women athletes received 40% of all scholarship dollars while men received 59% of the scholarship dollars.

According to the 2004-10 NCAA Gender Equity Report, women saw an impressive 13.6% increase in athletics participation. Men's numbers grew as well at the rate of 10.1% from 2004 to 2010. On average per institution, men make up 277 and women 232 participants. From a scholarship perspective, according to the same report,

“at the median, the proportion of grants-in-aid dollars given by gender is currently 52% for men and 48% for women” (NCAA GER 2004-10 8).

It is important to note that the NCAA switched to using median numbers for the 2004-2010 report which makes it very difficult to compare to previous studies.

However, the survey results are somewhat encouraging for NCAA membership to determine their commitment to gender equity. It is also important to note that women are closing the gap in terms of participation and available scholarship dollars. In other areas like recruiting spending, coaches’ salaries, revenues, and total expenditures – factors that help determine equity – women are still further behind than what would be ideal.

Recruiting is a major part of an athletic program. Some would call recruiting the lifeline to sustainability in college athletics. Yet, inspection of the top programs in Division I athletics reveals that the same names repeatedly occur on the lists of top 20 teams. Good coaching is one factor, but the main cause for long-term success is recruiting the best athletes, and this takes money. According to the 1997 NCAA Gender Equity study, men’s programs were allowed to spend 2.7 times the money on recruiting student athletes compared to women’s programs (Zimbalist 69). Fourteen years later in 2011, a significant gap remains between genders. Compiled from the 2010 NCAA Gender Equity study, at the median, men’s programs’ recruiting expenses were 63.6% compared to 36.4% for women’s teams (8). While the NCAA reports that recruiting expenses “spent for women’s teams are generally larger than any of the other

categories reported,” recruiting budget lines for women’s teams on the whole are still lagging behind men’s programs (NCAA GER 2003-04 13).

It takes a significant amount of money to recruit top talent. First, prospects are recruited from across the globe. Traveling to watch prospects numerous times a year can be very costly for programs. Some coaches have the luxury to use private planes to easily and seamlessly get from place to place. Travel costs are the biggest part of recruiting budgets. Coaches will travel to conduct home and school visits as well as to attend showcase events to evaluate talent. Showcase events that are organized for coaches to evaluate talent charge hundreds of dollars for coaches to attend and gain access to prospective student athlete contact information.

On-campus visits for prospects can be expensive as well. Schools might spend thousands of dollars on a prospect and family members when they are on campus for an official visit to show them the best of what the school has to offer. Recruiting budgets for power conference schools have to be able to compete with other power conference schools that are putting significant resources into recruiting top prospects. These figures indicate that there remains an ideology within the athletics community to support men’s programs at a higher level than women’s programs. Analyzing recruiting budgets is a key factor in projecting an athletics department’s seriousness about a program. It has been proven time and time again, that if you want a winning team, you need the money to recruit the best talent.

Another gap in college athletics can be found within the coaching ranks. When the AIAW governed women’s sports an overwhelming percentage of its coaches were

women. In 1972, women coached more than 90 percent of female college teams (Worsnop 343). As of 2011, only 40 percent of women's team coaches are female while men comprise the remaining 60 percent. However, only 4 percent of men's teams reported having female coaches (Wilson 17). In fact, since 1972 the percentage of women coaching women's teams has either decreased or stayed relatively the same through 2012 (Wilson 17). The lack of change in percentage of women coaches is astounding. Based on the percentages previously stated one could conclude that when coaching women's teams became lucrative, men became interested.

Women head coaches' salaries also saw substantial gains in recent years. The average total salary increased by a little over 400 percent from \$149,700 to \$561,800 between 1992-2003 (NCAA GER 2005-06 22). Although it was not as substantial, salaries also increased for women's coaches from 2003-2006. Average total salary numbers went from \$561,800 to \$659,000 during that period (NCAA GER 2005-06 22). It is clear that athletic directors started to put more emphasis on quality coaches earning quality salaries, which in turn made women's athletics a more desirable career option. The all-time "winningest" coach in all of collegiate basketball is Tennessee Lady Volunteers Coach, Pat Summitt. When she began her coaching career at Tennessee in 1974 her salary was \$8,900. Eight National Championships later, she was rewarded for her outstanding efforts for so many years as coach of basketball and an educator of young women with an annual salary of \$1 million in 2009. Soon after, Connecticut coach Geno Auriemma, Kim Mulkey of Baylor and Oklahoma's Sherry Coale followed in Summitt's footsteps with new contracts. In 2011, according to USA Today, five head coaches for

women's basketball, the NCAA's premiere women's sport, reached the \$1million salary mark (Berkowitz and Upton).

In addition to the increases in women's head coaches salaries, men's head coaches' salaries have also increased, and at a greater rate than for women coaches. Both men's and women's coaches are hired to do essentially the same job, yet the majority of men's coaches are compensated more handsomely for their efforts. The *New York Times* illustrated the compensation gap in a recent article, stating, "salaries for the coach of a NCAA Division I men's team in any sport- including universities in the Football Bowl and Football Championship Subdivisions- increased by 67% to \$267,007 from 2003 to 2010, according to statistics from the Department of Education. By contrast, the average salary for the coach of a women's team increased by 16% to \$98,106" (Gentry and Alexander). The difference between the two percentage increases is significant.

Returning to college basketball, of the sixty-eight men's teams in the 2011 NCAA tournament that reported the information, thirty-one coaches earned a salary over 1 million dollars (Berkowitz and Upton). Compare thirty-one coaches in men's basketball to the five head coaches of women's basketball who earned salaries greater than 1 million dollars.

One explanation for the large difference in salary could be that there is more parity in men's basketball. The parity in the men's game means that there are more teams that can and should compete for a national championship. It also means there is more opportunity for teams and coaches to appear on television and in high profile

games that draw large audiences and interest from media outlets. It is advantageous for athletic departments to pay their coaches a salary that matches the highest paid coach within men's basketball because they are more likely to keep the coach from going to another school that can offer a higher salary and a chance to win. Therefore, the salaries offered to men's coaches are greater because the market value for these coaches is greater than on the women's side. More people watch men's basketball and more people go to the games. Those two important factors require a competitive men's team where revenue is maximized. An associated cost to maximizing revenue is to pay a top salary for a coach. The expectation for a men's coach to reach a final four and compete for a national championship is far greater than the five or six women's teams that are projected to compete for a national championship.

In an effort to compete at the highest possible level, athletics departments are willing to spend significant amounts of money on a coach with the expectation of winning a national title that will in turn bring more money and notoriety to the department. The return on investment is estimated to be far better for a men's team than for a women's team or coach. The payout by the NCAA and the conference the school belongs to will be more than what it would be for a women's team because the money allocated to men's championship, thanks in large part to the media contracts, is much greater than the arrangement for women's championships. In addition, subsidiary revenues for the school will increase. For instance, merchandise sales, future season ticket prices, media and general interest surrounding the team and university will most

likely increase, all of which provide extra revenue and development opportunities to both the athletics department and university.

However, if comparisons are based on success (wins and championships), women's basketball coaches Pat Summitt and Geno Auriemma should receive higher salaries than men's coaches such as Duke's Mike Krzyzewski, Louisville's Rick Pitino and Kentucky's John Calipari. The combined number of championships for Krzyzewski, Pitino and Calapari still trail Summitt and Auriemma. Summitt and Auriemma have seventeen championships between them, while their counterparts for male teams only have seven championships combined.

The only conclusion for these staggering numbers is that, although women have seen substantial increases in salaries, men are still considered superior in all aspects of sport; therefore, they will always receive a higher salary no matter how great the accomplishments of the coaches of women's teams. Between the salary numbers and the amount of money schools pour into recruiting male athletes, there is no greater indicator of which sport is has more value to a department and a university. This is largely due to the fact that men's sports bring in the most money to support the rest of the athletics department.

It is true that men's programs bring in more revenue than women's teams. In terms of generated revenue, the NCAA reports in its 2004-10 Gender Equity Report that men's programs at the median increased revenue from \$1,567,000 in 2004 to \$2,186,700 in 2010 (11). These figures represent a 39.5% increase. According to the same report, women's team revenues also have increased from \$214,000 to \$317,000

reported in 2010 (11), but are not nearly at the level men's teams produced. Part of the reason men's teams produce more revenue is because ticket prices for men's teams, specifically men's basketball and football, are far more expensive than tickets for women's teams.

For example, at Duke University, to have access to men's basketball season tickets, one must be an Iron Duke member with a minimum annual giving of \$7,000, which is labeled "stadium level" ("tickets"). In addition to the annual giving amount to even be considered for men's basketball tickets, one must then purchase the actual season ticket. The amount for the season ticket in 2013-14 ranged from \$1,580 to \$8,000 depending on the section one selects. Cameron Indoor Stadium is considered "sold out" every season except for some games around the holiday season when students are not in attendance. For Duke women's basketball, season ticket prices range from \$51 to \$201 with no mandatory annual giving.

Alabama football has a similar system for their season tickets. They offer season tickets at \$415 a ticket with an annual giving amount, in addition to \$332 per ticket cost for faculty and staff, as well as single game tickets that range from \$55 to \$100 ("tickets"). Bryant-Denny stadium, where Alabama plays their football games, seats 101,821 people. The revenue intake of each game based on tickets at \$415 a ticket is significant. Fans can purchase a women's basketball season ticket for \$45 at Alabama.

The clear discrepancy in ticket prices is fairly standard throughout the country. Many non-revenue sports (volleyball, soccer, track and field) do not charge for admittance or they offer extremely low ticket prices and promotion packages where

there is little to no income. Just by analyzing the prices, the assumption is that schools cannot get fans to pay, or at least not very much, to watch women's athletics. Women's athletics is marketed to a more family orientated audience that cannot afford to pay the higher ticket price; thus, the lower prices. Men's athletics, on the other hand, are counted on for capacity attendance at a costly ticket price to produce revenue for the athletics department. Because of the high ticket costs, it is easy to understand why football and men's basketball bring in the most revenue.

Football and men's basketball bring in a great deal of money, but they also have significant expectations. In 2012, it was reported in the NCAA 2004-2010 *Gender Equity Report* that, on average across Division 1 athletics, men's team expenses were 60% of the whole, while women's teams made up the remaining 40% (23). Breaking that down further, among programs competing in the Football Bowl Subdivision, 69% of program expenses went toward men's teams while women were allocated 31% (Wilson 12). These statistics clearly indicate that there is still a wide gap between men's and women's sports within the schools that participate in the football bowl system.

To examine where the majority of spending happens in men's sports only, the numbers reported by the NCAA indicate that in 2010 within the Football Bowl Subdivision, 59% of the spending went to football, 19% to men's basketball, and the remaining 22% to every other men's sport (Wilson 11). These numbers suggest that the majority of resources are allocated to football and men's basketball, but mainly football. It has been argued that the revenues made from football help support the rest of the athletic department. However, this is not always the case.

Men's teams at the median as of 2010 are spending more than \$6 million a year, while women's teams are spending a little over \$4 million (NCAA GER 2004-10 11). And, as previously stated, the majority of that expense is from one sport, football. If one takes a look at the median revenue and expenses, it seems to be apparent that in most cases, the expenses outweigh the revenues. Thus, most programs run a deficit. Nearly half (43%) of football teams and men's basketball teams lose money (Lee 2). Because of the large amount of money put into football, coupled with a negative bottom line, athletics departments as a whole have trouble staying out of the red.

Athletic Departments have been running deficits for years and the deficit has increased over time. In 1993, 78% of athletics departments in Division I and II were running deficits; in 1999, 85% were running deficits (Lapchick 129). And in August 2014, the NCAA reported that within the Football Subdivisions (FBS), which is the division the power five conferences reside, only 20 schools reported revenues that exceeded expenses (NCAA.org). It is fair to say that all athletics programs within a school have contributed to the deficit these schools are reporting. Athletics programs spend too much. Yet, there has been no effort to decrease spending. In fact, increases in spending have been the trend. High coaches' salaries for football and men's basketball, lavish facility upgrades, and other benefits have contributed to the outrageous spending that has occurred in college athletics in recent years. If, for years, schools have been running deficits, where is the money coming from to fund these projects? And, considering that women lagged behind when there was a balanced budget, how will women's teams fare under this new college athletics entertainment business?

Chapter 4: The Emergence and Expansion of Television Contracts

Athletics for men have been a part of college settings for more than one hundred years. Yale and Harvard rowing teams met to compete in the first intercollegiate event in 1842. Football started on college campuses in the late 1860's, the first game featuring Rutgers versus Princeton. The game was a barnburner, with Rutgers pulling out the victory with a score of 6-4 before a crowd of approximately 100 people ("Rutgers"). There were no cameras, no fancy player introductions or advertisements. The players were not on athletic scholarships nor had they been fiercely recruited by every college coach in the country. They were just there to play the game, to beat the opposing team. And though at first the competitions were mostly for fun and bragging rights among schools, college athletics grew into a hotbed for commercial enterprise. As America evolved, so did college athletics, and football became the center of attention.

In the early 1900's, college football caught the attention of many people. Hundreds of people flooded college campuses on Saturdays to see their teams play. In the beginning, schools relied on actual game attendance as the only source of revenue (Zimbalist 91). Radio, however, allowed college football games to be played across a wider geographic region. Fans did not have to go to the stadium anymore; they could simply listen to the game from their home. Colleges could sell their games to a radio station for a rights fee to earn money. Radio rights fees made up for the money lost due

to people staying home. In 1932 the NCAA conducted a study that determined that 90 percent of its membership thought radio negatively impacted gate receipts and revenues (Zimbalist 91). Despite this finding, the NCAA was not in a position to mandate that schools stop selling their football games to radio stations because the Association was established to monitor the rules of football and amateurism, not the economic activity of an institution (Zimbalist 90). The NCAA's "home rule" philosophy allowed institutions to monitor and run their own departments. As a result, universities proceeded to sell their team's radio rights. In 1935 and 1936, the University of Michigan, and then Yale, each signed radio contracts for \$20,000 (Zimbalist 91-92). When schools recognized that they could sell their media rights to earn money, commercialization descended upon college campuses. And in the late 1940's football games began to be televised.

Television "changed the game." At first, with lower resolution technology, television was not the best way to watch a game. As technology advanced, however, the college athletics television market expanded. As with radio, it was feared that television impeded ticket sales and revenues. In 1951, a NCAA study concluded that in areas where 30 percent or more of the homes had television sets, attendance at football games dropped ten percent; in areas where less than five percent of the homes had televisions, attendance rose by ten percent (Zimbalist 93). As a result, the NCAA took control of whether a game could be played on live television and in doing so, contravened "home rule." However, after the NCAA took control of football broadcasts the organization began an experimental deal with help from Westinghouse Electric

Corporation. The deal was worth \$679,800 and it specified that the NCAA could decide which games to show, on which days, and through which networks. With results that the NCAA thought promising, it entered into a deal with NBC the following year for \$1.14 million (Zimbalist 94). Revenues were split among the membership based on television appearances with the Association getting a percentage of the deal as well. Most universities were in agreement with the NCAA's television plan and wanted to be included under the NCAA leadership because as Andrew Zimbalist explained in his book, *Unpaid Professionals*, "Television became a vehicle to promote the sport and the college" (94). And for the next thirty years, the NCAA controlled college football broadcasting.

Institutions eventually realized that they were getting the "short end of the stick" in terms of revenue. Every school wanted a piece of the pie but not every school competed at the same level. The NCAA limited television appearances to twice a year and determined which teams were broadcast, thereby controlling who received money. Lower tier teams were upset that they were not on TV as much as others, leaving their revenue share smaller; top tier teams wanted more exposure and more money. Some schools were left out of the television circuit entirely. Schools became restless and unhappy with the revenue sharing practices (Zimbalist 96). As a result, the NCAA was divided into three divisions: Divisions I, II, and III. According to the television contracts worth approximately \$16 million, Division I was the highest level and would receive the largest portion of the contract.

Although the contracts were increasing, the membership, especially at the top, still was unsatisfied. The bigger schools wanted more. In 1977 institutions representing the seven major football conferences formed the College Football Association (CFA). The CFA tried to work on its own deal that would require a break with the NCAA. In the end, most chose to stay with the NCAA, but the University of Oklahoma and the University of Georgia decided that they were not going to allow the NCAA to control their revenue stream any longer. In 1981, the two schools filed an antitrust suit against the NCAA. The US Supreme Court ruled in favor of the institutions, concluding that the NCAA's plan did not work under the free market and was not equitable (Zimbalist 98). By this time, television revenue had risen to \$74.2 million and institutions were free to negotiate their own television contracts.

College football and television exploded in the 1990's. Notre Dame was the first to capitalize on marketability. The university signed a five-year contract worth \$38 million. What is most significant about Notre Dame's move is that they did it alone. When they broke from the CFA to secure their own deal, Notre Dame proved that individual conferences and schools had negotiating power. Further evidence of this power came as other schools joined or changed conferences in order to maximize their profits. Conference realignment drove television contract negotiations and increased the value of football programs within institutions of higher learning. For example, in 1994 the Southeastern Conference (SEC) secured a deal with CBS for \$85 million for their regular season games (Zimbalist 102). Post-season games also saw a spike in media rights.

The Bowl Alliance was formed in 1994 to ensure the top football conferences would play in the top bowl games. The purpose was to help secure sponsors and advertisers for these bowl games in addition to making sure the matchups were competitive enough to ensure a high television rating. Teams from the Big East, Big 12, SEC, ACC and Notre Dame, and one other highly ranked school would have the opportunity to play in the Orange, Sugar and Fiesta Bowls. One of the games would be the feature “championship” game. All other conferences and schools were excluded. In 1996, the Big Ten and the Pac 10, the other two major football conferences, were added to the Alliance and brought with them the lucrative Rose Bowl. ABC broadcast all four bowl games for \$700 million over seven years beginning in 1998 (Zimbalist 105). The participation of so many conferences enabled the creation of a championship game, with a champion selected from participating schools based on a computer-generated formula. The series became known as the Bowl Championship Series, or BCS.

For the schools included in the Bowl Alliance, this new process meant significant revenue. Consider the payouts for the Rose Bowl. In 1969, the Rose Bowl payout to each school was \$925,000; in 1974 it was \$1.42 million, in 1998 payouts per school for the Rose Bowl reached \$11 million (Zimbalist 102) and in 2014, the payout per team was \$18 million (Rishe).

Because the Alliance had a monopoly on the major bowls, there were criticisms that the bowl system did not allow champions from other conferences. In addition, according to Zimbalist, only four major bowl games had large payouts (105). Political action was taken against the Alliance in an effort to have more equal revenue sharing.

But with its power already solidified in college football, the Alliance was able to offer the other conferences a deal that gave them more access to revenue while not encroaching on the top conferences access to resources or media attention through post season bowls. But the Alliance did not have control over regular season television contracts where there is also much money to be made.

The power conferences took control over the athletics landscape in the mid 2000's when they negotiated their regular season television contracts by demanding significant revenues for their sports teams. The original power conferences were the Big Ten, the Pac 10, Big 12, Southeastern Conference (SEC), Big East and the Atlantic Coast Conference (ACC). These conferences held the majority of the highly competitive sports programs especially in football and men's basketball thus these conferences benefited the most from television agreements. The declining United States economy forced departments to seek greater revenue streams to help offset increasing budgets. One example of alternative revenue source that schools created to increase revenue was utilizing the booming smartphone capabilities. Schools produced smartphone apps that fans could purchase in order to receive the most up-to-date sports information.

However, re-negotiation of television contracts starting in 2006 is what really started to transform college athletics. The Big Ten was the first to strike a major deal. According to Teddy Greenstein of the *Chicago Tribune*, Big Ten Commissioner Jim Delany fully expected to receive an increase in rights fees from media outlet ESPN. ESPN, however, was not so quick to oblige. According to Greenstein, ESPN "low balled" the Big Ten in Delany's opinion. As a result, in 2007 the Big Ten started its own network

called the Big Ten Network. This new network expanded the reach of Big Ten schools into 52 million homes, established agreements with 300 cable companies and covered all 50 states and Canada ("About Us"). The channel features "approximately 40 football games, 105 regular season men's basketball games, Big Ten Men's Basketball Tournament games, 55 women's basketball games, Big Ten Women's Basketball Tournament games, hundreds of additional Olympic sports events and dozens of Big Ten championship events" ("About Us"). But it is important to note that the Big Ten Network is not necessarily part of national programming or available on all cable programming like a network such as ESPN. The Big Ten Network may even be an add on to a cable package which means that a buyer can also opt not to purchase the Big Ten Network. But as the numbers suggest, the Big Ten has worked hard to make their network part of regular cable programming and they have marketed the channel well so consumers want to purchase the channel at an additional cost.

In its second year, the network distributed \$7 million per school (Greenstein), a sum that enticed some schools to switch conferences. For example, Nebraska, which had been a member of the Big 12, left the conference in 2010 to join the Big Ten. Nebraska's entrance into the Big Ten enabled the conference to have a Big Ten Championship football game. The formation of a championship game guaranteed the conference more revenue. Revenues from the media contract with Fox for the first six Big Ten Championship games would reach between \$20-\$25 million (Greenstein).

Nebraska leaving the Big 12 was important because it made the Big 12 and the rest of college athletics realize that they could lose more members to other conferences

because other conferences were offering a greater share in revenue. Prior to 2011, the Big 12 split 50% of its television revenue with its members but then additional money was distributed to those members whose football and men's basketball games actually appeared on TV, and for teams that advanced in the NCAA men's basketball tournament. Instead of an equal share, revenue sharing was stratified within the Big 12. As much as Nebraska wanted to be part of the Big Ten, the Big Ten wanted Nebraska, because according to the Associated Press article in 2011, "the Big Ten gets a valuable national brand in the Cornhuskers, one that gives the conference leverage in future television right negotiations" (Olsen). Indeed, this was the case. In 2006, with the anticipation of Nebraska joining the Big Ten in 2012, and Maryland and Rutgers joining in 2014, ESPN renegotiated a television deal with the Big Ten for one billion over ten years, for roughly 40 football and 60 men's basketball games (Greenstein). This ESPN deal works in conjunction with the Big Ten network. ESPN has rights to games of their choice and will broadcast them on national television, then the conference is allowed to add the remaining games to their Big Ten Network programming.

The addition of Nebraska into the Big Ten conference forced other conferences to expand. The ACC gained Pittsburg and Syracuse from the Big East. This move sent the Big East into turmoil because they lost two very key components of their conference. With the loss of Syracuse and Pittsburg, the Big East did not have enough major football programs still in the conference to remain competitive with the rest of the power five football conferences in terms of television exposure and was vulnerable to losing other universities with major football programs. In addition to losing Nebraska,

the Big 12 lost Colorado to the Pac 12 and Texas A & M and Missouri to the SEC only to replace them with West Virginia, from the Big East, and Texas Christian. The Big Ten also added Maryland from the ACC and Rutgers from the Big East. The movement between conferences has always been about money as Ben Kercheval, columnist for Bleacher Report stated, “Money is, has been, and always will be, the reason for conference realignment”.

In conjunction with realignment, conferences negotiated television deals that far exceeded previous contracts. The ACC signed a contract with ESPN in 2013 for \$4.2 billion that will go through 2026-27 (“A Decade of moves”). The PAC 12 signed a significant contract with ESPN and Fox networks in addition to starting its own network like the Big Ten. The SEC signed a 15 year deal with ESPN and Fox for \$2.25 billion. Following suit, the SEC, like the Big Ten, PAC 12, and the University of Texas, launched its own network in August 2014 with ESPN, which will extend their contract another ten years and provide “significant financial boost” (Sandomir). These most recent media contracts are the largest contracts in college athletics history.

These lucrative contracts are broken into tiers. First tier rights are for football and basketball games shown nationally. Second tier rights are for football and basketball games that have not been chosen for the first tier. Third tier rights are for any remaining football and basketball games, and any other sport, such as Olympic sport contests. Only the ACC negotiated a contract that included all three tiers. The ESPN table below outlines the television contract breakdowns by tier.

Conference Name	First Tier	Second Tier	Third Tier
Big 12 *per year average \$150 million **per schools average \$15 million	\$480 million (8 yrs., through 2015-16)	\$1.17 billion, Fox, 13 yrs. through 2024-25	
PAC- 12 *per year average \$250 million ** per school average \$20.8 million	\$3 billion, ESPN/FOX 12 yrs., through 2023-24 *1 st and 2 nd tier		
SEC *per year average \$205 million **per school average \$14.6 million	\$825 million CBS 15 yrs. through 2023-24	\$2.25 billion ESPN 15 yrs. through 2023-24	
Big Ten **per year average \$248.4 million **Per school average \$20.7 million	\$1 billion ESPN, 10 yrs. through 2016-17 **Football Championship Game: \$145 million FOX, 6 yrs. through 2016	\$2.8 billion, Big Ten Network, 25 yrs. through 2031-32 Selected basketball rights (24 games minimum, men's tournament semifinal and championship games) \$72 million CBS, 6 yrs. through 2016-17	
ACC *per year average \$240 million **per school average \$17.1 million	\$3.6 billion ESPN 15 yr. through ** 2026-27 Includes all 3 tiers		
Big East	\$200 million, ESPN 6 yrs. for basketball through 2012-13, 7yrs for football	\$54 million CBS, 6 yrs. through 2012-13 for basketball	

	through 2012-13		
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Information reported by Kristi Dosh, ESPN

The five power conferences reported record revenues for the 2013-14 fiscal year. During the 2013-14 season, according to ESPN, the Southeastern Conference made a record \$292 million. Each SEC member institution received \$20.9 million (Aschoff). The Atlantic Coast Conference also reached a milestone in conference revenue distribution that year when it reported a \$291.7 million spread among its members for \$20.8 per institution (Adelson). This high-stakes commercialization system of athletics- especially for football and men's basketball- - has brought institutions of higher learning not only revenue, but also exposure.

The numbers cited above represent just regular season contest agreements. The NCAA championships and bowl series are separate revenue streams. Bowl season involves college football's most anticipated game matchups. The current bowl system has been in place since 1998 when the Alliance set it up. But football enthusiasts; coaches, fans and administrators, have pushed for a football playoff system. And for the 2014-15 season, college football will see its first playoff format. A committee will select the top 25 teams. The top four will play a semi-final bowl for the right to play for the national championship. Kristi Doshi of ESPN suggested, "Economists and television consultants value a playoff system around \$600 million to \$1.5 billion per year, depending on the number of teams included. That's a major increase from the more than \$125 million per year the BCS currently receives annually from its contract with ESPN for the national championship, Fiesta Bowl, Orange Bowl and Sugar Bowl. The

Rose Bowl's contract with ABC generates another \$30 million per year." The playoff system will create record revenues for the schools involved.

The point of all the movement in college athletics is money: money generated predominantly by football. Men's basketball does play a significant revenue role, but it is not close to the amount that football generates. Also, it's important to keep in mind that only the five major conferences are earning top revenues. Smaller conferences are shut out of the larger dollar amounts. If one were to consider where women's athletics fits in the larger scheme of things it would be hard to find a place. Women's athletics was "getting its feet wet" in institutions around the country about the time that football really started to bring in substantial revenue dollars through media broadcasts.

It is extremely important for athletics departments within the five major conferences to have competitive football because competitive football is what makes a school valuable for a conference. And it takes a substantial amount of money to consistently produce a winning football program. Therefore, it has been difficult for other teams, specifically women's teams, to make gains in areas like participation, coaches' salaries and overall budget allocation in this male-dominated culture because the male sports require so much of the attention from administration and fans as well as they take up most of the resources. Budget data compiled by the NCAA indicates women are still trailing men in overall budget dollars even after 40 years of women's athletics being in existence. The majority of the resources are already going to building football programs including facilities, coaching staffs, and recruiting as noted in the previous chapter. Diverting funds that are directed to football and men's basketball to

help start and maintain women's sports has been a challenge as was noted by the large amount of legislation proposed to exclude football and men's basketball from Title IX compliance because of their revenue generating abilities.

The NCAA and its members are at a turning point. The equality gap that supporters of women's athletics are trying to close is, ironically, on the brink of getting even larger. With the large amounts of money coming into the major conferences, points of contention have increased and thoughts on how to govern collegiate athletics are divided. Gender equity informs these discussions about spending and governing because the conditions of Title IX must be met throughout every athletics department. The five major conferences are using their influence to expand their brand, retain as many revenue resources as possible and use their money as they see fit in regard to which athletes may receive benefits as evidence provided by recently retired SEC Commissioner Mike Slive who insisted that the power five conferences would break away from the NCAA to form their own division if they did not receive the leniency they have pushed for with regards to extra benefits for student athletes.

NCAA regulations have prohibited spending autonomy because the governing body is trying to provide a level playing field. Spending autonomy refers to a school's ability to spend any amount of money for whatever a school sees fit in order to sustain a program and enhance the student athlete experience. For instance, in recruiting correspondence, regulations originally placed limits on style of stationary a collegiate athletics program may use. Throughout my years of experience in a college athletics program, the NCAA's argument was that the schools with larger budgets have the ability

to spend more on elaborate, “eye-catching” stationary while a smaller school did not have the money to fund expensive stationary, therefore creating an unfair recruiting advantage for the power schools. Another example from my own experiences that was more pertinent to the student athletes was the concept of extra benefits such as meals, computers, and clothing. Past NCAA rules deemed these items as extra benefits and a violation of NCAA rules. Many student athletes cannot afford new computers for school work, meals to stay energized or dress clothes for banquets where they represent their team and because the sport program recruits players with the promise to help them grow as student athletes, the school must be allowed to provide the items to fulfill their obligation to provide a first rate student athlete experience.

The power five conferences have pressed for more autonomy and as a result the NCAA has recently deregulated some of the more controversial regulations. For instance, the NCAA has relaxed rules regarding the number of phone calls and text messaging that recruiters send to prospects. The NCAA also curtailed its stance regarding meals by allowing schools to provide unlimited meals for student athletes. Additionally, previous legislation did not allow schools to pay for their player’s vacation travel. Now the NCAA allows schools to pay for their players to travel during the school year when players are required to be in attendance for practice. Schools are permitted to purchase computers, and dress clothes, and to pay for data plans for their student athletes; under previous regulation, these items were considered extra benefits.

Television money is going to help pay for some of these allowances. But even these concessions have not sufficed. Most recently, at the 2014 SEC meetings, ESPN

reported that the commissioner of the SEC, recently retired, Mike Slive said that if the power conferences “don't get the flexibility needed to create their own bylaws, the next step would be to move to Division IV (“SEC ponders Division IV”). A Division IV would be the group of schools under the NCAA umbrella with the biggest revenue-generating football programs that would have complete control over what they provide for their student athletes.

The concept of a “Division IV” or a power conference is interesting because Notre Dame suggested a similar concept in the early development of television and media contracts for the more competitive schools so they could break from the NCAA in order to conserve autonomy with regard to how they govern their football programs. Fast forward 50 or so years and the same discussion is still taking place. Commissioner Slive indicated that the SEC would like to pay full cost of college attendance, provide long-term medical coverage and offer incentives to kids who return to school and complete degrees in addition to other student athlete related benefits (“SEC ponders Division IV”).

These challenging objectives raise difficult questions. For example, which student athletes will be eligible for these incentives? Will these objectives only apply to those student athletes whose sports bring in major cash? If so, then the possibility of exacerbating gender inequity is real.

Another major factor facing the institutions and the NCAA is the idea of paying players. Advocates for paying players question why the schools and the NCAA be the only ones to profit from the players’ athletic abilities and celebrity status when the

athletes are the ones who “entertain.” Which players should a school pay? Paying each player could cost an athletics department millions of dollars. The most obvious answer is that schools would pay the student athletes who make the most money, i.e., football and men’s basketball. Providing yet more benefits to football and basketball players is right on the cusp of becoming a reality. Northwestern football voted in April 2014 to form a union. The union will represent the player’s negotiations. It will lobby for benefits such as insurance coverage, payments above the cost of tuition, multi-year scholarships, and the use of likenesses in marketing. Female athletes at Northwestern would not be represented under this particular union. Female athletics teams could form their own union, although it would be tricky to lobby for more benefits when their sports are not the ones providing the department with revenues. Yet, female athletes are required to commit to their sport just as men do: they practice the same amount of time, they balance school and athletics and they compete for championships. But football and men’s basketball are the sports that networks are paying to broadcast and promote.

Another example of a potential gender inequality in college sports involves using players’ likenesses for profit. The NCAA saw an opportunity to enhance their brand in the video game market by teaming with Electronic Arts Sports (EA Sports) to produce video games of NCAA teams and players from football and basketball. The video games use the players’ images to create avatars. The players did not receive any of the royalties from sale because doing so would violate NCAA amateur rules. Instead, the money from the sales goes directly to the NCAA. Former and current football and men’s

basketball players have sued the NCAA for using their likenesses in video games. In June 2014, the NCAA settled a lawsuit by paying these players \$20 million. According to ESPN, the attorney for the plaintiffs, Steve Berman, expects the payments to Division I men's basketball and Bowl Subdivision football players to range from \$400 to \$2,000 each (Farrey). Another lawsuit against EA Sports regarding compensating players for the use of their likeness in video games was settled recently with a decision that awarded \$40 million to current and former college football players.

One other major piece of litigation that will shape the future of college athletics currently in the court system is *O'Bannon vs. NCAA*. Ed O'Bannon, a former UCLA basketball star, made the argument that he is entitled to compensation for the use of his image in marketing and promotional materials during his time as a college player. On August 8, 2014 federal judge Claudia Wilkins, from California, ruled in favor of O'Bannon and wrote in her decision that football and men's basketball players can receive money for the use of their likeness, names and images. She further ruled that the NCAA may not prohibit colleges from paying student athletes the total cost of attendance (Editorial Board). The NCAA has appealed the ruling to clarify precisely which players are able to receive compensation for the use of their names, likeness and images. The ruling by Judge Wilkins is significant in several ways. First, student athletes will be paid for the use of their images, which will require a thorough cost analysis of such use. Secondly, the ruling also allows schools to pay student athletes the total cost of attendance. This means that student athletes could receive additional funds above that of their scholarship for being an athlete. It will also be interesting to see how the ruling will

influence NCAA regulations related to athlete amateurism status. But for purposes of this paper, the O'Bannon case is especially significant because it will be interesting to see how the NCAA will divide profits among the athletes while staying compliant with Title IX.

Although the NCAA and the conferences have made some efforts to promote an equitable athletic environment, they continue to favor the two major men's programs that create revenue. From my personal experiences within women's college basketball, I can attest to the fact that women's games are always set after the men's basketball television schedules are confirmed and in some cases our games are moved to accommodate a men's game. Additionally, at both of the institutions where I have worked, the men's basketball team has had more leniencies in spending. My program operates on a "need" basis whereas the men's program seems to operate on a "want" basis. Everything they do is more elaborate than any other sport on campus. Our men's basketball team charts every road game in a large plane with numerous additional athletics staff to support the team, whereas our budget will mostly only allow a smaller charter for 30 people to travel with us. Occasionally we will be able to charter a larger aircraft that seats 50 passengers. When we fly across the country for a game we fly commercial airlines to save money. Additionally, we also bus to some games in order to cut our travel costs.

I would like to note though, that while our program is incredibly well taken care of in terms of funding and administrative support from our athletics department coaches, support staff and supporters always compare with what men's sport receive.

Title IX does not require the exact same treatment from team to team but within the athletic community women's coaches often compare directly to their male counterparts instead of using the three-prong method that was determined by the Department of Education in an effort to create equity. I've been in situations where Title IX was used as a reason or a threat made by a coach or staff member of a women's team in order for their team to receive the exact same treatment as the men's team even though what they had was more than adequate and compliant with regard to Title IX regulations. An example of this tactic would be if a women's coach demanded a new locker room in the name of gender equity just because a men's team receive a new locker room even though the women's locker room is in good shape and functions appropriately for the team. I am not suggesting that women's teams should settle, quite the contrary, but I do not think that coaches should use Title IX as a reason for equality of luxury but rather for major gender equity infractions. However, this tactic would most likely not have to be used by women's coaches if their teams were always considered with the same care as men's teams.

On the other hand, our department and each program within the department benefit from our men's team being competitive. The more success our men's team has, the more money it earns for the department. And if that means men's basketball program spends large amounts of money to fully furnish dorm rooms with items from Pottery Barn to beat others out for prize recruits, then that is what it takes. I can say my program does not have the budget (nor the need at this juncture) for such luxury items nor the expectation to lure such highly sought after players. We have to prioritize and

be creative with our money to cover our needs while remaining competitive. One of the most important aspects of our jobs is to offer the most positive student athlete experience. The student athlete experience encompasses all facets of the student athlete's life including benefits. The women on my team see what football and men's basketball is able to provide for their student athletes. They often ask why they do not receive the same consideration. And while my players are the most provided for of the women's teams and rest of the men's teams on campus, as coaches we still have to discuss with our team issues related to benefits and gender equity.

It is possible that through the stratification that is happening in college athletics, non-revenue sports, mostly men's sports, will be the biggest losers. Chapter 3 illustrated that when women's sports are taken out of the spending equation, the vast majority of money is still funneled to football and men's basketball. Also, considering that in 1984-87 when Title IX was not in effect, men's sports like gymnastics and track and field were dropped by some schools, it is not far-fetched to assume that those men's sports will be the first sports to be dropped in the current athletics climate if it comes to eliminating sports. It is possible that the schools in the power five conferences will only offer football and men's basketball and whatever women's sports they need to in order to comply with Title IX. This approach will ensure that the majority of money can still be spent on football and basketball without having to worry about funding for many other sports. The downside to eliminating sports is that there will be lost opportunities for many student athletes to receive an education while competing for their school.

It is difficult to balance competitive greatness and gender equity across a department. The possibility of paying star athletes has created a firestorm within college athletics because this balance will be even more difficult to attain. The challenge for universities, colleges, and the NCAA is how they are going to ensure equity within their sport programs. Nelson Schwartz and Steve Eder of the *New York Times* noted, “as market forces tend to do across the board, rewarding players directly could also sharply increase inequality among different sports and the athletes themselves” (Eder and Schwartz). While football and men’s basketball players may deserve some compensation for their talents, governing bodies have the responsibility to ensure equal opportunity and experiences for the other athletes. Other athletes should not have to suffer because top executives and decision makers at the colleges and other governing bodies have significantly pushed and supported men’s football and men’s basketball disproportionately in comparison to other men’s and women’s sports.

Chapter 5: The Reporting System and Court Cases That Have Helped Shape Equality in College Athletics

Because Title IX is a federal law, it is ultimately the responsibility of the federal government to make sure that institutions are adhering to their guidelines. There is a system to reporting Title IX violations. To report a potential Title IX violation, one simply needs to file a grievance with the Office of Civil Rights in which the alleged discrimination occurred (“How to file a complaint”). Complaints can be filed online, email or through the regular mail. This past year alone, there were 55 Title IX violations reported to the Department of Education Office of Civil Rights (Joachim and Steinhauer). These statistics show that individuals are reporting when discrimination takes place, whether the violation occurs in athletics or other areas. However, what happens after the reporting is somewhat suspect. Katie Thomas of the *New York Times*, reported in 2011 two cases specific to athletics that were mishandled or untouched for years. In 1998 the University of Southern California was reported for a Title IX violation. Thomas reports, “thirteen years later, the federal agency charged with investigating sex discrimination in schools has not completed its inquiry of U.S.C.” Thomas also highlights a 2008 case against Ball State University. Thomas stated that, Ball State “was losing a disproportionate number of female coaches.” Instead of investigating the matter, the Office of Civil Rights allowed Ball State to do its own internal investigation. The investigation found no wrongdoing by the university. These are not the only examples of reported violations for which decisions have been rendered slowly or investigated

only marginally. In the 42 years Title IX has existed, no school that was found in violation of Title IX has ever lost funding for violating the law (Thomas). These examples of Title IX noncompliance and lack of accountability by the law do draw a certain level of concern not only under the current athletics landscape but also going forward. Throwing larger amounts of money into a college system that already goes unpunished for a violation of law, could be a major obstacle to gender equity. Though the television contracts will be great for schools as a revenue resource, the downside is that, depending on how schools manage the deregulation of NCAA rules, many non-revenue sports including all women's sports, will be at a disadvantage when compared to football and basketball. And with the Department of Education's current track record of zero consequences for offenders, the number of Title IX violations may increase. The most significant approach women have taken thus far to maintain some sense of equity within college athletics is to file lawsuits against the schools that are not compliant with Title IX. There have been three significant lawsuits that have helped control equity, at least to a certain degree.

As mentioned in the first chapter, one of the first lawsuits of major importance to the impact on Title IX was *Franklin v Gwinnett* in 1992. The suit was filed by a student against her teacher. The student claimed her teacher "engaged her in sexual orientation conversations...forcibly kissed her on the mouth in the school parking lot...telephoned her at home and asked if she would meet him socially...and...on three occasions...interrupted a class, requested that the teacher excuse her and took her to a private office where he subjected her to coercive intercourse" (Vargyas 374). This is a

violation of Title IX because Title IX also protects students from sexual violence in an educational setting. The plaintiff won this case and the verdict changed the way further Title IX cases were decided. The court “unanimously allowed monetary damages for intentional violations of Title IX of the Education Amendments of 1972” (Vargyas 373). Such a verdict had never been handed down in Title IX cases up until this case. This decision by the courts was a huge win for anti-discrimination lawsuits. This verdict provided the ability to issue substantial monetary punishment to any institution found in violation of the law. The ruling was significant because there was an actual punishment to institutions that were found in Title IX violation. And because athletics was part of the educational system, the ruling meant that in instances where athletic departments were not in compliance, they too could be held accountable through litigation. The verdict in the Franklin case set the tone in terms of punishment for future Title IX violators.

In 1991 Brown University demoted women’s volleyball and gymnastics to donor-funded varsity teams. Two years later, Brown University student athlete, Amy Cohen, filed a lawsuit against her university on the grounds of gender discrimination. The demotion of the teams meant that the team had to fundraise to cover its operating expenses. In addition to the loss in funding, the courts found that the teams lost “most of the support and privileges that accompany university-funded varsity status at Brown” (Cohen 2). During the trial, Brown’s athletics department was scrutinized for the opportunities they provided for their female students. It was found that Brown offered a lower number of athletics opportunities for its female students despite the fact that

they represented 51.14% of the student body (*Cohen* 3) which is a violation of prong one of the three prong test developed to ensure compliance. According to the court findings, Brown also failed the two other prongs to ensure Title IX compliance (*Cohen* 5). As a result, in 1996 Brown University was found in violation of Title IX and forced to promote the women's teams back to university funded varsity status.

Another important case for Title IX compliance within athletics came in 2005 when former Fresno State University head women's basketball coach Stacy Johnson-Klein sued the university on the basis of gender discrimination. She claimed the athletics director fired her because she spoke up about gender discrimination, sexual harassment and Title IX violations at the school ("Fired Fresno State Coach"). The University claimed that she was fired because she took a prescription drug that belonged to a player, was abusive, and violated NCAA rules (Steeg 3). The jury unanimously decided in favor of Johnson-Klein. The jury also rendered a \$19 million award to Johnson-Klein for the universities wrongdoing. The award has been the largest in Title IX case history.

More recently in 2009 Quinnipiac University faced litigation over a Title IX violation involving its women's volleyball program. The school tried to cancel its volleyball team in favor of competitive cheerleading. According to Lindsay Hock of *The She Network*, as the lawyer for the volleyball team started to investigate operations within Quinnipiac, she found that the school "had used numerous tactics to prevent university athletes from having equal educational opportunities in its athletics offerings and operations – direct, bold violations of Title IX." As a result of the attorney's findings,

Quinnipiac settled the case in April 2013 with a commitment to keep all of its women's sports, increase scholarships for women's teams and update facilities for women's teams (Chaudhry).

These cases are important because they prove that there is a major interest in providing fair incentives to encourage women to compete in the classroom and on the field of play. Because of their courage, these women raised the issue of discrimination with the courts, and as a result have helped women's athletics grow. Proof of this growth could not be more evident than in youth participation numbers. A little over 3.2 million girls participated in high school sports in 2012-13 according to the National Federation of State High School Association. These numbers coincide with the increase in scholarship numbers for women in college that were cited in Chapter 3. Another indicator that women's athletics are growing is the increased media attention for women's programs in collegiate athletics. Once a completely male dominated media section, ESPN has begun to help develop women's athletics on television. In 2009, they launched ESPNW a webpage devoted to women's sporting news. It features women from all different sports and levels. ESPN has also taken on the NCAA women's basketball tournament. They feature all the tournament games on their network. ESPN also programs the NCAA Women's Softball College World Series and Volleyball Championships. The Big Ten and Longhorn Networks have committed programming to feature their women's sports programs. I have witnessed media attention growth first hand in my own career. This season alone, my team will play a record high 12 television games in the regular season. Two of these games will be featured on the 9pm prime

time spot. These programs are great because now women's sports can be seen in the homes of girls. Girls will have the ability to see female athletes that they will perhaps model and admire. Though participation numbers, media attention and many other areas that determine equity are still lagging behind men's sports, there is growth within women's athletics. In order to continue that growth and ensure Title IX success, it is more important for women's sports teams to be visible in American culture. Much of women's athletics visibility can be attributed to success in litigation of Title IX discrimination.

Chapter 6: Conclusion

College athletics is at a turning point especially as it relates to the power five conferences. A large influx of money has provided the opportunity for colleges within these conferences to expand their brand and visibility across the country and the world. Media, both televised and web-based, are changing the college athletics landscape. Schools have changed allegiance from conferences that many of them started or have belonged to for years. Decade old rivalries have been broken in the name of securing more media resources and television markets. A group of power five conferences has been established that will control the majority of television resources. Because of the leverage conferences now have within the NCAA, they have asked for rules deregulation that will severely impact how athletics departments operate. There are many questions in the current landscape of college athletics regarding the impact that these changes will have on each athletic program. How are schools, even within the power five conferences, going to regulate fairness among each other? Schools are not created equally. Some have more resources beyond the television contracts than others. How will athletics departments treat their athletes? Will top men's players in football and basketball be the only ones who will benefit from rules deregulation? Can athletics departments continue to fund Olympic and non-revenue sports? These are all legitimate questions but from the previous chapters, it is clear that Title IX will continue to maintain gender equity in college athletics. Title IX has made significant strides to help gain equity within college athletics for women. Scholarship numbers, coaches'

salaries, facilities and overall budgets have all increased over the years for women's teams. Though increases have been made, the numbers show that there is still much work to be done in order for women to reach full equity. And even though money through media contracts is dictating some of the changes in college athletics, Title IX will ensure that women will have an avenue to continue progress.

Litigation through the years has helped shape this growth. Though the federal government created the law, it has been ineffective in applying it to offenders. Instead, women have taken their complaints to the courts in pursuit of gender equity. And thanks to the Franklin verdict, schools that have been found in violation of Title IX have literally paid for using discriminatory practices within their athletics operations.

Moving forward, it will be interesting to see how schools comply with Title IX. One unintended consequence may be the elimination of men's non-revenue sports. Title IX was intended to provide equal opportunity for those who were once not even considered. But now, because of the money arms race, athletes could lose opportunities. It makes one wonder what a college athletics culture would look like without highly competitive commercial sports. Would students still play if they knew they would not be on "Big Monday" or "College Game Day"? My guess is that they would. However, American culture is so enamored with the entertainment side of college athletics that it seems pointless to think that commercialized college athletics will not continue. College athletics is big business and it is important for schools in the power five to remain competitive in order to secure a piece of that big business. But it begs the question: at what cost? Should a male athlete receive a better experience than

a female student athlete? The answer is no. And thankfully for the last forty years, Title IX has been in effect to see that equity in college athletics exists. Though the future of college athletics at this point might appear a bit cloudy, what is clear is that women's athletics will continue to grow under the wing of Title IX because of past litigation and a growing interest in women's athletics to protect equity for female college athletics despite the television money for men's basketball and football.

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